

# EXHIBIT 4

N.Y. Comp. Codes R. & Regs. tit. 10, § 5-1.72

**COMPILATION OF CODES, RULES AND  
REGULATIONS OF THE STATE OF NEW  
YORK**

**TITLE 10. DEPARTMENT OF HEALTH  
CHAPTER I. STATE SANITARY CODE  
PART 5. DRINKING WATER SUPPLIES  
SUBPART 5-1. PUBLIC WATER SYSTEMS  
OPERATION AND QUALITY CONTROL.**

Current through amendments included in the New York State Register,  
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**Section 5-1.72. Operation of a Public Water System**

(a) The supplier of water and the person or persons in charge of the operation of a public water system shall operate and maintain the public water system in such a manner to meet the requirements of this Subpart.

(b) The person or persons in charge of operation of a public water system shall be certified pursuant to Subpart 5-4 of this Part.

(c) Complete daily records shall be kept of the operation of a public water system on forms provided or approved by the department.

(1) A copy of such records shall be sent to the State by the 10th calendar day of the next reporting period. These records shall include the results of all tests, measurements or analysis required to be made by this Subpart or as requested by the State. Other operational records shall be available for inspection by the State.

(2) Systems using conventional filtration treatment or direct filtration must conduct continuous turbidity monitoring for each individual filter, as described in section 5-1.52 table 10A of this Subpart. Systems must record the results of individual filter monitoring every 15 minutes.

Systems must maintain individual filter monitoring results for at least three years. Systems must report to the State that they have conducted individual filter turbidity monitoring within 10 days after the end of each month the system serves water to the public. Systems must report to the State individual filter turbidity measurement results within 10 days after the end of each month the system serves water to the public only if measurements demonstrate one or more of the following conditions, except that systems serving fewer than 10,000 persons are not required to comply with subparagraph (ii) of this paragraph:

(i) For any individual filter that has a measured turbidity level of greater than 1.0 Nephelometric Turbidity Units (NTU) in two consecutive measurements taken 15 minutes apart, the system must report the filter identification number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the system must either produce a filter profile for the filter within seven days of the exceedance (if the system is not able to identify an obvious reason for the abnormal filter performance) and submit the profile to the State, or report the obvious reason for the exceedance.

(ii) For any individual filter that has a measured turbidity level of greater than 0.5 NTU in two consecutive measurements taken 15 minutes apart at the end of the first four hours of continuous filter operation after the filter has been backwashed or otherwise taken offline, the system must report the filter number, the turbidity, and the date(s) on which the exceedance occurred. In addition, the system must either produce a filter profile for the filter within seven days of the exceedance (if the system is not able to identify an obvious reason

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on for the abnormal filter performance) and submit the profile to the State, or report the obvious reason for the exceedance.

(iii) For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of three consecutive months, the system must report to the State the filter number, the turbidity measurement, and the dates on which the exceedance occurred. In addition, the system must conduct a self-assessment of the filter within 14 days of the exceedance and submit the self-assessment to the State. The self-assessment must consist of at least the following components: assessment of filter performance; development of a filter profile; identification and prioritization of factors limiting filter performance; assessment of the applicability of corrections; and preparation of a filter self-assessment report.

(iv) For any individual filter that has a measured turbidity level of greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of two consecutive months, the system must report to the State the filter number, the turbidity measurement, and the dates on which the exceedance occurred. In addition, the system must arrange for the conduct of a comprehensive performance evaluation (CPE) by the State or a third party approved by the State no later than 30 days following the exceedance, and have the evaluation completed and submitted to the State no later than 90 days following the exceedance.

(3) Systems using conventional filtration treatment or direct filtration treatment must notify the State in writing by December 8, 2003, if the system recycles spent filter backwash water,

thickener supernatant, or liquids from dewatering processes. This notification must include, at a minimum, the following information:

(i) A plant schematic showing the origin of all flows which are recycled (including, but not limited to, spent filter backwash water, thickener supernatant, and liquids from dewatering processes), the hydraulic conveyance used to transport them, and the location where they are reintroduced back into the treatment plant.

(ii) Typical recycle flow in gallons per minute (gpm), the highest observed plant flow experienced in the previous year (gpm), design flow for the treatment plant (gpm), and the State-approved operating capacity for the plant where the State has made such determinations.

(d) Any supplier of water of a public water system, subject to the provisions of this Subpart, shall retain at a convenient location the following records:

(1) Records of microbiological analyses made pursuant to this Subpart shall be retained for at least five years and records of chemical and turbidity analyses made pursuant to this Subpart shall be retained for at least ten years. Actual laboratory reports may be kept, or data may be transferred to tabular summaries, if the following information is included:

(i) the date, place and time of sampling, and the name of the person who collected the sample;

(ii) identification of the sample whether it was a routine distribution point sample, check sample, raw or process water sample or other special purpose sample;

(iii) date of analyses;

(iv) laboratory and person responsible for performing the analysis;

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(v) the analytical technique or method used; and

(vi) the results of the analyses.

(2) Records of action taken by the supplier of water to correct violations of the requirements of this Subpart shall be retained for at least three years.

(3) Copies of any written reports, including summaries or communications relating to sanitary surveys of the public water system shall be retained for at least 10 years.

(4) Records concerning a variance or exemption granted to the public water system shall be retained for at least five years following the expiration of such variance or exemption.

(5) Copies of the records or data summaries shall be provided to any consumer of the public water system within 15 days on written request by a consumer. The supplier of water may require prepayment of a fee to cover the cost of handling and reproduction of the records and data summaries requested.

(6) The supplier of water must provide the State with copies of all repeat or special total coliform sample results and all *Escherichia coli* (*E. coli*) sample results, within five days of receipt.

(7) Beginning June 8, 2004, systems using conventional filtration treatment or direct filtration that recycle spent backwash water, thickener supernatant or liquids from the dewatering processes must collect the following recycle flow information:

(i) copy of the recycle notification and information submitted to the State in accordance with paragraph (c)(3) of this section;

(ii) list of all recycle flows and the frequency with which they are returned;

(iii) average and maximum backwash flow rate through the filters and the average and maximum duration of the filter backwash process in minutes;

(iv) typical filter run length and a written summary of how filter run length is determined;

(v) the type of treatment provided for the recycle flow; and

(vi) data on the physical dimensions of the equalization and/or treatment units, typical and maximum hydraulic loading rates, type of treatment chemicals used and average dose and frequency of use, and frequency at which solids are removed, if applicable.

(e) Each community water system which serves 15 or more service connections used by year-round residents or regularly serves at least 25 year-round residents shall prepare and provide an annual water supply statement (report) to the customers it serves. The report must contain information on the Quality of the water delivered by the system and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. For the purpose of this subpart, customers are defined as billing units or service connections to which water is delivered by a community water system.

(f) The report shall contain such information as is required in this subdivision and any additional information required by the State, except that paragraph (7) and subparagraphs (13)(vii) through (xi) of this subdivision shall not apply to systems serving fewer than 1,000 service connections. The information required to be included in the report is described in this subdivision.

(1) Information on the source of the water delivered. The report must identify the source(s) of the water delivered by the community water system by providing information on:

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(i) the type of the water source (e.g., surface water, ground water); and

(ii) the commonly used name (if any) and location of the body (or bodies) of water or aquifer(s).

If the State has completed a source water assessment, the report must notify consumers of the availability of this information and the means to obtain it. The report must include a brief summary of the system's susceptibility to potential sources of contamination, using language provided by the State.

(2) Definitions for maximum contaminant level, maximum contaminant level goal, maximum residential disinfectant level and maximum residual disinfectant level goal. Each report must include the definitions set forth using the following language:

(i) *Maximum Contaminant Level Goal (MCLG)*: The level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety.

(ii) *Maximum Contaminant Level (MCL)*: The highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible.

(iii) *Maximum Residual Disinfectant Level (MRDL)*: The highest level of a disinfectant that is allowed in drinking water.

(iv) *Maximum Residual Disinfectant Level Goal (MRDLG)*: The level of a drinking water disinfectant below which there is no known or expected risk to health. MRDLGs do not reflect the benefits of the use of disinfectants to control microbial contaminants.

(3) Definitions for variances and exemptions. A

report for a community water system operating under a variance or an exemption issued under sections 5-1.90--5-1.96 of this Subpart must include the following language: *Variances and Exemptions*: State permission not to meet an MCL or a treatment technique under certain conditions.

(4) Definitions for action level and treatment technique. A report that includes information on a contaminant that is regulated as a Treatment Technique (i.e., turbidity) or Action Level (i.e., lead, copper) must include one or both of the following statements:

(i) *Treatment Technique (TT)*: A required process intended to reduce the level of a contaminant in drinking water.

(ii) *Action Level (AL)*: The concentration of a contaminant which, if exceeded, triggers treatment or other requirements which a water system must follow.

(5) Information on detected contaminants from sampling used to determine compliance. For the purpose of this subdivision (except *Cryptosporidium*, *Giardia*, and radon monitoring, detected means: at or above the contaminant's minimum detection limit (MDL), as specified in Appendix 5-C of this Subpart or as prescribed by the State. Any contaminants specified in sections 5-1.41 (lead and copper) and 5-1.51 of this Subpart and section 5-1.52 tables 8A, 8B, 8C, 8D, 9A, 9B, 9C, 9D, 10, 10A, 11, 11A, 12, 16 and 17 of this Subpart that are detected during compliance monitoring must be displayed in one table or in several adjacent tables. Additionally, the report shall include detected monitoring results for samples collected and analyzed by the State and/or detected monitoring results of additional samples required by the State. If a system is allowed to monitor for specific contaminants less often than once a year, the table must include the date and results of the most recent sampling

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and the report must include a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulations. No data older than five years need be included. For the contaminants listed in section 5-1.52 tables 8A, 8B, 8C, 8D, 9A, 9B, 9C, 9D, 10, 10A, 11, 12, 16 and 17 of this Subpart the table(s) must contain:

- (i) the State MCL for that contaminant expressed as a number equal to or greater than 1.0;
- (ii) the MCLG (as prescribed by the State) for that contaminant expressed in the same units as the MCL;
- (iii) if there is no MCL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report must include the definitions for treatment technique and/or action level, as appropriate, specified in paragraph 4 of this subdivision;
- (iv) for contaminants subject to a MCL, except turbidity and total coliforms, the highest contaminant level used to determine compliance with this Subpart and the range of detected levels, as follows:
  - (a) when compliance with the MCL is determined annually or less frequently: the highest detected level at any sampling point and the range of detected levels expressed in the same units as the MCL.
  - (b) when compliance with the MCL is determined more frequently than annually: the highest average of any of the sampling points used to determine compliance and the range of all sampling points expressed in the same units as the MCL.
  - (c) when compliance with the MCL is determined by calculating a running annual average of all samples taken at a sampling point: the highest aver-

age of any of the sampling points used to determine compliance and the range of all sampling points expressed in the same units as the MCL; and

(d) when compliance with the MCL is determined on a system-wide basis by calculating a running annual average of all samples at all sampling points the report must include: the average used to determine compliance and the range of detection expressed in the same units as the MCL.

Note to subparagraph (iv) of this subdivision: When rounding of results to determine compliance with the MCL is allowed by the regulations, rounding should be done prior to converting the results to the same units presented for the MCL, TT or AL.

(v) surface water and groundwater under the direct influence systems are required to include information from turbidity monitoring in the report.

(a) turbidity reported pursuant to the requirements of sections 5-1.30 and 5-1.52 table 10 of this Subpart (for systems that must install filtration but have not) include the highest monthly average. The report should include health effects language prescribed by the State.

(b) turbidity reported pursuant to the requirements of sections 5-1.30(c) and 5-1.52 table 10A of this Subpart (for systems that have met the criteria of avoiding filtration) include the highest single measurement found in any one month. The report should include an explanation of the reasons for measuring turbidity; and

(c) turbidity reported pursuant to sections 5-1.30 and 5-1.52 table 10A of this Subpart (for systems that filter and use turbidity as an indicator of filtration performance) include the highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in section 5-1.52 table 4A of this Subpart for the filtration technology being used. The report should include an explanation of the reasons for measuring



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turbidity.

(vi) for lead and copper: the 90th percentile value of the most recent round of sampling, the range of detections, and the number of sampling sites exceeding the AL.

(vii) for total coliform:

(a) the highest monthly number of positive samples for systems collecting fewer than 40 samples per month; or

(b) the highest monthly percentage of positive samples for systems collecting at least 40 samples per month.

(viii) for *E. coli*: the total number of positive samples.

(ix) the likely source(s) of detected contaminants (as prescribed by the State) shall be reported.

If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the report shall include data from each separate distribution system. Alternatively, systems could produce separate reports tailored to include data for each service area. The table(s) must clearly identify any violations of MCLs or TTs and the report must contain a clear and readily understandable explanation of the violation including: the duration of the violation, the potential adverse health effects, and actions taken by the system to address the violation. To describe the potential health effects, the system must use language prescribed by the State.

(6) Information on nondetected contaminants from sampling used to determine compliance. Analytical test results for the contaminants listed in section 5- 1.52 tables 8A, 8B, 8C, 8D, 9A, 9B, 9C, 9D, 10, 10A, 11, 12, 16 and 17 of this Subpart or addi-

tional monitoring required by the State which are not detected shall be:

(i) described in the report in a brief narrative; or

(ii) presented in the report as a separate table or list.

(7) Analytical results for source water samples not used to determine compliance. If the analytical results for samples of source(s) of water supply, other than those for *Cryptosporidium* or *Giardia*; used to determine compliance; or listed in section 5-1.52 tables 16 and 17 of this Subpart, are not included in the report, they shall be placed in a supplement to the report.

(8) Information on *Cryptosporidium*, *Giardia* and radon. If the system has performed any monitoring for *Cryptosporidium*, *Giardia* or radon, which indicates that *Cryptosporidium* or *Giardia* may be present in the source water or the finished water or that radon may be present in finished water, the report must include:

(i) a summary of the following: sampling sites; number of tests per year; testing results; and actions taken in response to those results; and

(ii) an explanation of the significance of the results.

(9) Compliance with the State Sanitary Code. The report must note any violation that occurred during the year covered by the report of a requirement listed in subparagraphs (i)-(v) of this paragraph, and include a clear and readily understandable explanation of the violation, any potential adverse health effects related to the violation, and the steps the system has taken to correct the violation:

(i) monitoring and reporting and recordkeeping

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of compliance data:

(ii) filtration and disinfection prescribed by sections 5-1.30 and 5-1.32 of this Subpart. For systems which have failed to install adequate filtration or disinfection equipment or processes, or have had a failure of such equipment or processes which constitutes a violation, the report must include language prescribed by the State.

(iii) lead and copper control requirements. The report must include health effects language prescribed by the State for lead, copper, or both for systems which fail to take one or more actions prescribed by sections 5-1.40--5-1.49 of this Subpart.

(iv) the report must include health effects language prescribed by the State for systems which violate the TTs specified in section 5-1.51 of this Subpart for Acrylamide and Epichlorohydrin; and

(v) violation of the terms of a variance, an exemption, or an administrative or judicial order.

(10) Variances and exemptions. If a system is operating under the terms of a variance or an exemption issued under sections 5-1.90--5-1.96 of this subpart the report must contain:

(i) an explanation of the reasons for the variance or exemption:

(ii) the date on which the variance or exemption was issued:

(iii) a brief status report on the steps the system is taking to install treatment, find alternative sources of water, or otherwise comply with the terms and schedules of the variance or exemption; and

(iv) a notice of any opportunity for public input in the review, or renewal, of the variance or ex-

emption.

(11) Educational information. The report must contain the language of subparagraph (i) of this paragraph or alternative language approved by the State. The report also must include the language of subparagraphs (ii) through (iv) of this paragraph.

(i) the sources of drinking water (both tap water and bottled water) include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally-occurring minerals and can pick up substances resulting from the presence of animals or from human activities. Contaminants that may be present in source water include: microbial contaminants; inorganic contaminants; pesticides and herbicides; organic chemical contaminants; and radioactive contaminants.

(ii) in order to ensure that tap water is safe to drink, the State and the EPA prescribe regulations which limit the amount of certain contaminants in water provided by public water systems. The State Health Department's and the FDA's regulations establish limits for contaminants in bottled water which must provide the same protection for public health.

(iii) drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the Environmental Protection Agency's Safe Drinking Water Hotline (800-426-4791).

(iv) some people may be more vulnerable to disease causing microorganisms or pathogens in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons



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who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice from their health care provider about their drinking water. EPA/CDC guidelines on appropriate means to lessen the risk of infection by *Cryptosporidium*, *Giardia* and other microbial pathogens are available from the Safe Drinking Water Hotline (800-426-4791).

(12) Additional health effects statements for arsenic, nitrate, lead, total trihalomethanes, and fluoride.

(i) a system which detects arsenic at levels above 5 ug/l, but less than or equal to the MCL must include in its report a short informational statement about arsenic, using language prescribed by the State.

(ii) a system which detects nitrate at levels above 5 mg/l, but below the MCL must include a short informational statement about the impacts of nitrate on children using language prescribed by the State.

(iii) a system which detects lead above the action level in more than 5%, and up to and including 10% of the sites sampled (or for systems sampling less than 20 sites and even one sample is above the action level) must include a short informational statement about the special impact of lead on children using language prescribed by the State.

(iv) A system using only groundwater or using surface water as its source and serving less than 10,000 persons, which detects TTHMs above 80 ug/l, but below 100 ug/l, as an annual average, monitored and calculated as described in section 5-1.52 table 3 of this Subpart, must until January 1, 2004, include health effects language prescribed by the State.

(v) a system which detects fluoride at levels above 2 mg/l, but below the MCL must include in its report an informational statement about fluoride, using language prescribed by the State.

(13) Additional information. Each report must also include the items listed in subparagraphs (i)-(xii) of this paragraph:

(i) the name and address of the community water system and the public water system identification number;

(ii) the name and telephone number of the owner, operator, or designee of the community water system as a source of additional information concerning the report;

(iii) the telephone number of the county or district health department office which has jurisdiction over the water system;

(iv) information (e.g., time and place of regularly scheduled board meetings) about opportunities for public participation in decisions that may affect the quality of the water;

(v) a brief statement explaining the number of people served by the community water system;

(vi) a brief description of the types of treatment that the water received before entering the distribution system;

(vii) for systems that calculate water use of all customers with meters, an accounting of the total annual amount of water withdrawn, delivered, and lost from the system;

(viii) a brief description of any water source restricted, removed from service, or otherwise limited in its use and any actions taken to secure new supplies or replace lost capacity;

(ix) water conservation measures customers can take such as, but not limited to, retrofitting

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plumbing fixtures, altering irrigation timing, using irrigation sensors, leak detection, proper use of water conserving appliances, daily conscientious use of water, and the estimated savings in water and energy or money from the use of such measures:

(x) a description of any major modification completed by the water system during the reporting period to include a brief description of each and its effect on the water system, and a discussion of capital improvements needed or planned:

(xi) for systems that bill their customers, the report shall include the annual average charge for water, either in annual charge per average resident user or annual charge per one thousand gallons of water delivered; and

(xii) systems may also include such additional information as they deem necessary for public education consistent with, and not detracting from, the purpose of the report.

(14) Information for non-English speaking residents. In communities with a large proportion of non-English speaking residents, as determined by the State, the report must contain information prescribed by the State in the appropriate language(s) expressing the importance of the report.

(15) Information on unregulated contaminants. If the system was required to monitor for contaminants listed in section 5-1.52 table 16 of this Subpart, the report must identify a person and provide the telephone number to contact for information on the monitoring results.

(g) Report delivery and recordkeeping.

(1) Report distribution to consumers.

(i) Each community water system must mail or otherwise directly deliver one copy of the re-

port to each bill-paying customer by the date specified in subdivision (h) of this section.

(ii) the system must make a good faith effort to reach consumers who do not get water bills, using methods prescribed by the State.

(iii) each community water system serving 100,000 or more people must post the current year's report to a publicly-accessible site on the Internet.

(iv) each community water system must make its reports available to the public upon request.

(v) If a supplement is prepared in accordance with paragraph (f)(7) of this section, the report must contain a statement that describes that the analytical results for source water samples not used to determine compliance are contained in a supplement and that the supplement is available to the customer on request. The supplement shall also be:

(a) published in a notice at least one-half page in size, in one newspaper of general circulation within the water district;

(b) made available on the Internet, along with supplements from the two prior years, if such prior supplements exist, and notice of the availability of such information on the Internet shall be clearly provided on the report and on each billing statement; or

(c) made available at all New York state documents information access centers, documents reference centers, documents depository libraries and documents research depository libraries within the water district and if no such libraries exist within the water district at a public library within the water district, and notice of the availability of the supplement at such library or libraries shall be clearly provided on the report and on each billing statement.

Such supplement need not be included in the copy

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of the report mailed or directly delivered to each bill-paying customer.

(2) Report distribution to State agencies.

(i) No later than the date the system is required to distribute the report to its customers, each community water system must mail one copy of the report and one copy of the supplement, if prepared, to the commissioner of the State Health Department and the county or district health department office which has jurisdiction over the water system. The system must also deliver (by September 1st) to these two agencies a certification that the report has been distributed to customers, and that the information is correct and consistent with the compliance monitoring data previously submitted to the State.

(ii) No later than the date the system is required to distribute the report to its customers, each community water system serving 1,000 or more service connections must deliver a copy of the report and a copy of the supplement, if prepared to the Commissioner of Environmental Conservation.

(iii) investor-owned community water systems regulated by the Public Service Commission (PSC) shall also deliver a copy of the report and a copy of any supplement prepared, to that agency.

(3) Recordkeeping requirements. Any system subject to this subpart must retain copies of the report for no less than three years.

(h) Applicable dates.

(1) All community water systems must deliver a copy of the report, to its bill-paying customers and take good faith efforts to each consumers who do not get water bills on or before May 31st of each year.

(2) Each community water system serving 100,000 or more people must post their current year's report on a publicly accessible site on the Internet by May 31st of each year.

(3) All community water systems must deliver a copy of the report and a copy of the supplement, if prepared, to the required regulatory agencies on or before May 31st of each year.

(4) A new community water system, must deliver its first report to its customers and a copy of the report and the supplement, if prepared to the required regulatory agencies by May 31st of the year after its first full calendar year in operation and annually thereafter.

(5) A community water system that sells water to another community water system, must deliver the applicable information required in paragraphs (f)(1), (5)-(10) and (13) of this section to the buyer system:

(i) by April 1st of each year; or

(ii) on a date mutually agreed upon by the seller and the purchaser, and specifically included in a contract between the parties.

(6) By September 1st, each community water system must mail a copy of the certification form to the State Health Department and the county or district health department office which has jurisdiction over the water system.

**CREDIT(S)**

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<General Materials (GM) - References, Annotations, or Tables>

10 NYCRR 5-1.72, 10 NY ADC 5-1.72

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